

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

For the reasons set forth in the Opinion accompanying this Final Order, it is
ORDERED that the Motion to Dismiss (ECF No. 38) is GRANTED; the defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (ECF No. 28) is DENIED; and the § 2255 proceeding is stricken from the active docket of the court. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is DENIED.

ENTER: January 17, 2013

/s/ James P. Jones
United States District Judge